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**Oscar David McDaniel d/b/a McDaniel Electric (Sole Proprietorship) and International Brotherhood of Electrical Workers, Local 477, AFL-CIO. Case 31-CA-19638**

September 10, 1997

**SUPPLEMENTAL DECISION AND ORDER**

BY CHAIRMAN GOULD AND MEMBERS FOX AND HIGGINS

On November 23, 1993, the National Labor Relations Board issued a Decision and Order,<sup>1</sup> *inter alia*, directing Oscar David McDaniel d/b/a McDaniel Electric, the Respondent, to adhere to the current collective-bargaining agreement entered into by the Southern-Sierra Chapter, National Electric Contractors Association (NECA) and International Brotherhood of Electrical Workers, Local 477, AFL-CIO (the Union), to make all past due and current trust fund contributions as required by the agreement, and to make whole the unit employees for any losses they may have suffered because of the Respondent's failure to adhere to its contract in violation of the National Labor Relations Act. On July 27, 1994, the United States Court of Appeals for the Ninth Circuit entered its judgment enforcing in full the Board's Order.

A controversy having arisen over the amounts due under the terms of the Board's order, on May 16, 1997, the Regional Director for Region 31 issued a compliance specification and notice of hearing alleging the amounts due through March 31, 1997, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated July 16, 1997, counsel for the General Counsel advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was received no later than the close of business on July 31, 1997, summary judgment would be sought. The Respondent filed no answer.

<sup>1</sup> 313 NLRB 126.

On August 11, 1997, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Summary Judgment, with exhibits attached. On August 12, 1997, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

**Ruling on the Motion for Summary Judgment**

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the amounts due through March 31, 1997, are as stated in the compliance specification, and we will order payment by the Respondent of those amounts, plus interest accrued on the amounts to the date of payment.<sup>2</sup>

**ORDER**

The National Labor Relations Board orders that the Respondent, Oscar David McDaniel d/b/a McDaniel Electric (sole proprietorship), Anaheim, California, its officers, agents, successors, and assigns, shall pay the following amounts, plus any additional amounts due the funds in accordance with *Merryweather Optical Co.*, 240 NLRB 1213 (1979):

<sup>2</sup> The Regional Director has reserved for future determination any monetary obligation for periods subsequent to March 31, 1997.

<i>FRINGE BENEFIT FUND</i>	<i>TOTAL SUM DUE</i>	<i>INTEREST</i>
Education and Training - San Bernadino County Electrical Education and Training Trust Fund	\$7,555.32	\$2,929.45
Pension Fund - Southern California IBEW - NECA Pension Trust Fund	219,833.28	85,251.63
Health and Welfare - Inland Empire, IBEW-NECA Health Trust Fund (6/1/92 to 5/30/95)	111,122.02	43,093.11
Health and Welfare - Inland Empire, IBEW-NECA Health Trust Fund (6/1/95 to 3/31/97)	70,980.00	27,526.04
Labor Management Cooperation, Local Union 477, Southern Sierra Chapter NECA Labor-Management Cooperation Committee (LMCC)	2,356.65	914.04
National Electrical Benefit Fund	32,602.92	12,643.05
National Electrical Industry Fund	10,867.97	4,215.00
Local Union 477, IBEW Union Working Dues	53,107.37	20,594.90

<i>FRINGE BENEFIT FUND</i>	<i>TOTAL SUM DUE</i>	<i>INTEREST</i>
Contract Administrative Maintenance Fund	525.40	203.60
<b>TOTAL:</b>	<b>\$508,950.93</b>	<b>\$197,370.82</b>
<b>GRAND TOTAL:</b>	<b>\$706,321.75</b>	

Dated, Washington, D.C. September 10, 1997

William B. Gould IV, Chairman

Sarah M. Fox, Member

John E. Higgins, Jr., Member

(SEAL) NATIONAL LABOR RELATIONS BOARD